



Press Release

National Labor Relations Board

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NLRB outlines plans for considering 2-member cases in wake of Supreme Court ruling

In response to numerous inquiries, the National Labor Relations Board today outlined its plans for handling returned cases following the Supreme Court's recent [decision](#) in *New Process Steel v. NLRB* that the Board was not authorized to decide cases when three of its five seats were vacant.

During a 27-month period that ended with the recess appointments of two members last March, the Board operated with two members: current Chairman Wilma Liebman and former Chairman and Board Member Peter Schaumber. They decided nearly 600 cases on which they could agree, while those remaining were held for additional Board members.

At the time of the June 17 Supreme Court decision, 96 of the two-member decisions were pending on appeal before the federal courts – six at the Supreme Court and 90 in various Courts of Appeals. The Board is seeking to have each of these cases remanded to the Board for further consideration.

Each of the remanded cases will be considered by a three-member panel of the Board which will include Chairman Liebman and Board Member Schaumber. Consistent with Board practice, the two other Board members not on the panel will have the opportunity to participate in the case if they so desire.

It is unclear at this time how many of the two-member Board rulings not already challenged in the federal appellate courts can or will be contested and how many may now be moot.

For the first time since December 2007, the Board is now at full strength with the addition of Member Brian Hayes, who was sworn in late yesterday. Last week, the Senate confirmed Mr. Hayes and Board Member Mark Pearce. Member Pearce was originally given a recess appointment to the Board by President Obama in March, along with Board Member Craig Becker.

The National Labor Relations Board is an independent federal agency vested with the power to safeguard employees' rights to organize and to determine whether to have unions as their bargaining representative. The agency also acts to prevent and remedy unfair labor practices committed by private sector employers and unions.

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